

No.: 17553

Docket No.: 15309-1US

Re No.: Appl. 09/933,798

**OGILVY  
RENAULT**

LP/SENCRL, s.r.l.

**Facsimile****RECEIVED  
CENTRAL FAX CENTER****AUG 18 2005****Confidentiality Message**

This communication sent by facsimile is confidential, may be privileged and is intended for the exclusive use of the addressee. Any other person is strictly prohibited from disclosing, distributing or reproducing it. If the addressee cannot be reached or is unknown to you, please destroy this message and all copies. Thank you.

Number of pages including this cover sheet: **4**  
Date: **August 18, 2005**  
From: **Robert Mitchell, reg. 25,007**  
Telephone: **(514) 847-4290**  
E-Mail: **rmitchell@ogilvyrenault.com**

To	Company - City	Phone	Fax
Ula C. Ruddock	USPTO, Art Unit 1771	571-272-1481	703-872-9306

**Message**

Enclosed herein is a "Commentary to IDS" which comments the IDS (Information Disclosure Statement) which was filed in the USPTO on July 28, 2005, with respect to US Patent Application no. 09/933,798, filed on August 22, 2001, entitled "Integral Waterproofing Membrane" by first named inventor Denis Faucher.

Barristers & Solicitors,  
Patent Agents & Trade-mark Agents

2nd Floor  
500 Grande Allée Est  
Québec, Québec G1R 2J7  
Canada

Telephone (418) 640-5000  
Fax (418) 640-1500

ogilvyrenault.com

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicant: Denis Faucher  
Serial No.: 09/933,798  
Filing date: August 22, 2001  
Title: INTEGRAL WATERPROOFING MEMBRANE  
Examiner: Ruddock, Ula Corinna  
Group Art Unit: 1771  
Attorney Docket: 15309-1US MG/ADA/al  
Agent of Applicant: Robert Mitchell Tel.: (514) 847-4290

RECEIVED  
CENTRAL FAX CENTER  
AUG 18 2005

Commissioner for Patents  
P.O. Box 1450  
Alexandria VA 22313-1450  
U.S.A.

**COMMENTARY TO IDS**

Sir/Madam:

In relation with the Information Disclosure Statement filed herewith, please take note of the following comments.

This IDS was filed following reception of an International Search Report (ISR) received during prosecution of a PCT application based on the instant US Patent application. A copy of the ISR is attached for your information. Other documents of relevance were also localized and reported with this IDS.

The ISR reported US Patent no. 4,837,095, European Patent no. 0 260 494, and German Patent no. 90 02 221 as being of particular relevance to the related PCT application. Please accept the following comments pertaining to these documents.

US Patent no. 4,837,095 presents a roof waterproofing composite. The roof waterproofing composite is formed by applying a molten first layer of asphalt 12 onto a roof substrate 11, applying a layer of non-woven polyester 13 to the first layer 12, and applying a second layer of asphalt 14 onto the polyester 13 thus bonding the first 12 and second 14 layers

- 2 -

Commissioner for Patents

Serial No. 09/933,798

through the polyester 13. An additionnal layer (15-16, 17 or 18) is then applied to the second layer 14 to protect the asphalt from UV rays and to protect the polyester from heat. (Please note particularly in the Detailed Description, column 4 line 22 to column 5 line 9)

The waterproofing membrane as claimed in Claim 1 of the instant Patent application includes a support sheet receiving a bitumen based waterproofing material layer and an adhesive coating for adhering the support sheet to a substrate by penetration into the support sheet. We thus believe US Patent no. 4,837,095 cannot be said to include an adhesive adhering a membrane to a substrate, and rather relies on the adhesive characteristics of the first asphalt layer layed "on site" to adhere the membrane to the roof.

Patents EP 0 260 494 and DE 90 02 221 were reported as being of particular relevance when combined with one or more other such documents. Both documents being in German Language, we have proceeded to obtaining a mechanical translation of the texts done by the free software provided by Systran<sup>TM</sup> ([www.systranet.com](http://www.systranet.com)) to aid in understanding the references. These mechanical translations are attached hereto.

As it can be seen in the Figure and in the paragraph of lines 5 to 11 of column 5 (corresponding to paragraph 26 of the automatic translation), EP 0 260 494 relates to a membrane having a reinforcing sheet 1 sandwiched between bitumen coatings 2 on both sides, and further has a peel-off sheet 3. Oppositely, in the membrane of the present invention as claimed in Claim 1, the support sheet and impervious surfacing sheet sandwich the bitumen coating on opposed sides, and the support sheet is used to bond the membrane to the substrate using the adhesive.

Regarding DE 90 02 221, it can be seen in the Figure and in the last paragraph of the description (corresponding to Paragraph 7 of our automatic translation), that this membrane includes a reinforcing layer 4 sandwiched within bitumen 5, 6 on both sides. The total thickness

- 3 -

Commissioner for Patents

Serial No. 09/933,798

of the bitumen layer is of 5mm, 2mm on one side and 3mm on the other. The membrane further includes what seems to be a layer of polypropylene 7 on one surface of the bitumen, and a fleece 3 of polypropylene fibers "glued" onto the opposed surface of the bitumen in such a way that it is not impregnated by the welding mass, but rather provides a large surface for heat transfer when the membrane is being welded onto a surface by heat process. The membrane claimed in claim 1 of the instant patent application has a porous support sheet in which the bitumen layer is adhesively imbibed, and which is used to adhere the membrane to a substrate via an adhesive.

For the reasons described above, the application is believed to be in condition for allowance. Early and favourable action would be appreciated.

Respectfully,

**Denis FAUCHER**

By:

---

Agent of the Applicant  
Robert Mitchell  
Regis. No. 25,007  
OGILVY RENAULT  
1981 McGill College Avenue  
Suite 1600  
Montreal, Quebec  
Canada, H3A 2Y3  
Tel. (514) 847-4290  
Fax. (514) 288-8389

Enclosure: International Search Report  
Automatic translations of patents DE 90 02 221 and EP 0 260 494